

BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

Proposed Language

Amend Section 3065 of Title 16 of the California Code of Regulations to read as follows:

3065. Professional Standards and code of Professional Conduct – Professional Geology and Geophysics.

To protect and safeguard the health, safety, and welfare, and property of the public, every person who holds a registration issued is licensed by the ~~b~~Board for Geologists and Geophysicists (Board) as a professional geologist or professional geophysicist, including licensees employed in any manner by a governmental entity or in private practice, shall comply with all applicable laws, codes, and regulations and ~~shall comply with~~ the professional standards in this section. A violation of any of the following professional standards ~~in the practice of geology or geophysics~~ shall constitutes unprofessional conduct and shall be sufficient a grounds for disciplinary action.

(a) Compliance with Applicable Law:

A licensee shall provide all geologic and geophysical services in a manner consistent with applicable laws, codes, ordinances, rules and regulations. A licensee may obtain and rely upon the knowledge and advice of other professionals (e.g., architects, attorneys, professional engineers, other professional geologists and geophysicists, land surveyors, and other qualified persons) concerning the intent and meaning of such laws, codes, and regulations.

~~(a)~~ (b) Competence:

(1) A Licensed geologists or licensed geophysicists (together with those whom the licensee may engage as consultants) shall undertake to perform or offer to perform only those professional services for which they only when he or she, together with those whom the registrant may engage as consultants, are qualified by education, training, and experience, and licensure as required by law, in the specific technical and scientific areas involved.

(2) When practicing geology or geophysics, a registrant licensee shall act with competence and reasonable care, and shall apply that technical knowledge and skill which is ordinarily applied practiced by registrants licensees of in good standing, practicing in this state under similar circumstances and conditions.

~~(b)~~ (c) Misrepresentation:

(1) A ~~registrant~~ licensee shall not misrepresent nor permit the misrepresentation of his or her professional qualifications, affiliations, or purposes, or those of the institutions, organizations or other businesses with which ~~he or she is~~ they are associated.

(2) A ~~registrant~~ licensee may advertise or solicit for ~~any~~ those professional services for which he or she is authorized by ~~registration~~ licensure, provided such services are within his or her field of competence.

(3) A ~~registrant~~ licensee shall not accurately misrepresent his or her qualifications to a prospective or existing client or employer ~~his or her qualifications and the scope of his or her responsibility in connection with projects or services for which he or she is receiving or will receive compensation.~~

(4) A licensee shall not misrepresent to a prospective or existing client, the licensee's scope of responsibility in connection with those professional services for which the licensee is receiving or will receive compensation, whether directly or indirectly. Specifically, a licensee who represents that a project was completed under his or her responsible charge (i.e., stamped and/or signed) must also have maintained responsible charge of the work.

~~(4)~~ (5) A ~~registrant~~ licensee shall only express professional opinions ~~that~~ which have a basis in fact, are within the scope of the licensee's own ~~or~~ experience or knowledge, and are generally accepted geologic or geophysical principles.

~~(5)~~ (6) A ~~registrant~~ licensee shall not plagiarize the professional work of others and shall attribute proper credit to others for their professional work or professional contribution, and shall not misappropriate the professional work of others.

~~(6)~~ (7) A ~~registrant~~ licensee shall not knowingly permit the publication or use of his or her data, reports, ~~or~~ maps, plans, or other professional documents for any unlawful purposes.

~~(7)~~ (8) A ~~registrant~~ licensee shall not falsely or maliciously attempt to injure, impugn or, in fact injure the professional reputation or business of others.

~~(8)~~ (9) A ~~registrant~~ licensee shall not misrepresent data ~~and~~ or its relative significance in any geologic or geophysical report work product or oral conveyance of his or her professional opinion.

(10) A licensee shall not misrepresent or conceal the scope of his or her professional responsibility in connection with those professional services for which the licensee is claiming any responsibility or credit, or for which the licensee is receiving any compensation.

(11) When providing information to the Board pursuant to another's application for licensure to practice professional geology or geophysics, a licensee shall accurately

represent his or her knowledge of the applicant's qualifications and qualifying experience.

~~(c)~~ (d) Conflict of Interest:

(1) A ~~registrant~~ licensee shall not concurrently engage in any other business, or occupation or have a financial interest in any entity that may ~~which~~ impairs his or her the ~~registrant's independence~~ judgement, objectivity, or which may creates a conflict of interest in rendering his or her professional services.

(2) A ~~registrant~~ licensee shall not accept compensation for his or her professional services from more than one party on any project, endeavor, or proceeding unless the circumstances are fully disclosed and agreed to in writing by all such concerned parties. ~~Such disclosure and agreement shall be in writing.~~

(3) If a ~~registrant~~ licensee has any business association or financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the ~~registrant~~ licensee shall fully disclose in writing to his or her client(s) or employer(s) the nature of the business association or financial interest. If the client(s) or employer(s) object(s) to such association or financial interest, the ~~registrant~~ licensee shall either terminate such association or interest, or offer to give up the project or employment.

(4) A ~~registrant~~ licensee shall not solicit or accept payments, rebates, refunds, or commissions, or compensation, whether in the form of money or otherwise from other professionals, contractors, suppliers of material, systems or equipment suppliers in return for specifying their products or professional services to a client or employer of the ~~registrant~~ licensee.

~~(d)~~ (e) Confidential Information:

As used in this section, "confidential information" means all information, specifically identified as obtained in confidence ~~by a registrant from his or her employer, prospective the licensee's client, employer, representative, or other related entity client or former client by reason of or in the course of his or her employment or other professional capacity.~~ Confidential information obtained by a registrant, licensee in his or her professional capacity, concerning an employer or client shall not be disclosed by the registrant licensee without the prior permission, of the employer or client except for under the following specific conditions:

(1) disclosures made in response to a subpoena or summons enforceable by an order of a court;

(2) disclosures made in response to an official inquiry from a governmental regulatory agency;

(3) disclosures made by a ~~registrant~~ licensee to another ~~registrant~~ licensee to the extent necessary for purposes of professional consultation;

(4) disclosures made when required by law, code, or regulation.

(5) disclosures made upon discovering of an imminent geologic hazard within the licensee's field of professional expertise, which, in the licensee's professional opinion, is a may threaten to the health, safety and welfare of the public.

(6) disclosures made when providing evidence to the Board concerning another licensee or unlicensed individual, who may have violated any part of the Geologist and Geophysicist Act or this Section;

(7) disclosures made regarding alleged illegal conduct; or

(8) disclosures made in an adjudicatory proceeding or pursuant to an order of the court.

(f) Document Submittal

(1) A licensee shall not misrepresent the completeness of any professional geologic or geophysical document submitted to any governmental or regulatory agency.

(2) A licensee shall not misrepresent the completeness of any professional geologic or geophysical document prepared for his or her client, employer, or other involved party.

NOTE: Authority cited: Sections 7818 and 7860(c)(3), Business and Professions code.
Reference: Section 7860(c)(3), Business and Professions Code.